HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21948 of 2006

Dated:23.10.2006

Between:

S.T.P.Lakshmi Kumar.

…Petitioners

and

The Sub Registrar and another.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21948 of 2006

ORDER:

The petitioner filed the instant writ petition seeking a writ of mandamus declaring the action of the second respondent in prohibiting the registration of the documents pertaining to the land in Survey No.81/81A of Adivivaram Village of Chinagadili Mandal in Visakhapatnam District, by invoking powers under Section 22-A of the Registration Act, 1908, as amended by Registration (A.P.Amendment) Act, 1999, vide G.O.Ms.No.360, dated 25.08.2000, and the consequential order of the first respondent dated 28.12.2004 in refusing to register the documents of the petitioner as unconstitutional and *ultra vires*. The petitioner also seeks a consequential direction to the respondents to register the documents presented by him in respect of land in Survey No.81/81A situated at Adivivaram Village of Chinagadili Mandal in Visakhapatnam District.

In **State of Rajasthan v. Basanth Nahata**[1], the Supreme Court struck down the provision in Registration Act as amended by the State of Rajasthan as *ultra vires.* Following the same, a Division Bench of this Court in its judgment, dated 07.12.2005, in W.P.No.14099 of 2003 and batch struck down Section 22-A of the Registration Act as applicable in State of Andhra Pradesh. It is also brought to the notice of this Court that Special Leave Petition filed by the State Government against the said judgment was also dismissed

by the Supreme Court on 11.08.2006. Therefore, the impugned notification cannot be sustained.

In view of the Judgment of the Supreme Court as well as this Court in W.P.No.14099 of 2003, Section 22-A of the Registration Act itself has been declared *ultra vires,* and therefore, Government Order issued in exercise of powers under Section 22-A of the Registration Act cannot be enforced. Following the judgment of the Division Bench, this Writ Petition is disposed of, and the impugned notification in G.O.Ms.No.360, dated 25.08.2000, is set aside. As and when the sale deeds are presented by the petitioner, the Registering Authority shall accept the same for registration, and if for any reason, the same cannot be registered, record the reasons.

The Writ Petition, subject to the above observations, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

23.10.2006
vs

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[1] (2005)12 SCC 77